

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT, IN AND FOR
MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 19-06869 CA (15)

CIVIL DIVISION

DR. JAMES ERIC MCDONOUGH,
Plaintiff,

vs.

CITY OF HOMESTEAD,
a Florida municipal corporation,
Defendant,

**PLAINTIFF, DR. JAMES ERIC MCDONOUGH'S, FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS TO DEFENDANT**

INSTRUCTIONS

1. When producing the documents, please keep all documents segregated by the file in which the documents are contained, and indicate the name of the file in which the document(s) is (are) contained and the name(s) of the documents being produced.

2. If any document requested herein has been lost or destroyed, you are requested to submit in lieu of each such document a written statement that shall:

- (a) describe in detail the nature of the document and its contents;
- (b) identify the person who prepared or offered the document and, if applicable, the person to whom the document was sent;
- (c) specify the date the document was prepared or transmitted, or both; and
- (d) specify, if possible, the date which the document was lost or destroyed and, if destroyed, the conditions of or reasons for such destruction and the persons requesting and performing the destruction.
- (e) provide a copy of the destruction log if it exists.

3. If any documents otherwise required to be produced by this request are withheld, identify each document or item requested herein that is withheld from production on any claim of privilege, work product, or other immunity from production and for each such document or item state:

- (a) the specific basis on which the document or item is being withheld;
- (b) the date and subject matter of the document or item; and
- (c) the author(s), preparer(s), or producer(s) of the document or item pursuant to the definition of “identify” contained in these Requests.

4. If you consider any of the following requests, or portions thereof, objectionable, separately state which part is objected to and the ground(s) for each objection.

5. Any request for production of a document shall be deemed to require production of each and every thing executed, created, prepared, received or in effect at any time to the present, or during any other indicated period of time.

6. If you respond to a request for discovery with a response that is complete when made, these requests for production are continuing and, as such, you are nevertheless under a duty to supplement the response to include information thereafter acquired.

7. All requests seek items generated or relating to events as alleged in the instant matter.

DEFINITIONS

1. “CITY,” refers to Defendant, the City of Homestead, and any agent, employee or other person acting or purporting to act, or who acted or purported to act, on behalf of the City of Homestead at any time until the present, or during any other indicated period of time.

2. “McDonough,” refers to Plaintiff, Dr. James Eric McDonough, and also includes any agent, employee, attorney, legal assistant, paralegal, or other person acting or purporting to

act, or who acted or purported to act, on behalf of Dr. James Eric McDonough at any time until the present, or during any other indicated period of time.

3. “Communications” include both written and verbal exchanges including, but not limited to, verbal conversations, telephone calls, letters, notes, memoranda, electronic mail (e-mails), text messages, reports, telegrams, confirmations, exhibits, drawings, sketches, minutes, transcripts, summaries and any other “document” as later defined that constitutes, confirms, embodies or otherwise relates to the communications.

4. “Correspondence” include both written and verbal exchanges including, but not limited to, verbal conversations, telephone calls, letters, notes, memoranda, electronic mail (e-mails), text messages, reports, telegrams, confirmations, exhibits, drawings, sketches, minutes, transcripts, summaries and any other “document” as later defined that constitutes, confirms, embodies or otherwise relates to the communications.

5. “Document” shall be given its broadest possible meaning, and shall denote the original or, if unavailable, a copy of the original, in draft or final form, including “redlined” revisions of any written, typed, printed, recorded, computerized, sorted, or graphic matter, however produced, animated, stored or reproduced, and of every kind and description. The term “document(s)” shall include but not necessarily be limited to contracts, agreements, drawings, specifications, sketches, letters, correspondence, messages, notes, memoranda, agreements, modifications, change orders, unilateral changes, electronic mail (e-mails), text messages, or other communications, records of telephone conversations, books, records, confirmations, drafts, notes, work papers, bills, ledgers, status reports, diaries, daily reports, minutes of meetings, journals, entries in journals, personal work papers, personal work files, diaries, logs, punchlists, transmittals, submittals, financial statements, audit reports, financial data, status reports, calendars, schedules, studies, summaries, reports, charts, books, drawings, diagrams, exhibits,

video tapes, photographs, movies, tapes, recordings, transcripts, purchase orders, subcontracts, amendments, proposals, estimates, data sheets, computer printouts, computer diskettes or drives, compact disks (CDs), optical disks, whether sent or received, databases, computer programs, all other records kept by electronic, photographic or mechanical means and all copies or reproductions thereof which are different in any way from the original. The term “document” shall mean all of the above that are in your custody, possession, or control.

6. “All documents” means every document or group of documents that are known to you or that can be located or discovered by a reasonably diligent search.

7. “Person” shall mean any individual, corporation, proprietorship, partnership, trust, association or any other entity.

8. “Identify” with respect to a person means that you will furnish information sufficient to enable Defendants to locate such person, and

a. if the person is a natural person, provide his or her full name, present or last known address, phone number, current and relevant employment, including position, and similar identifying information; and

b. if the person is not a natural person, state whether such entity is a corporation, partnership, or other organization, its full name, present or last known address, phone number, and similar identifying information.

9. “Identify” with respect to a document means and includes the name and address of the custodian of the document, the location of the document, and a general description of the document, including: (1) the type of document (i.e. correspondence, memorandum, facsimile, etc.); (2) the general subject matter of the document; (3) the date of the document; (4) the author of the document; (5) the addressee of the document; and (6) the relationship of the author and addressee to each other.

10. “Concerning” includes referring to, responding to, relating to, connected with, supporting, memorializing, regarding, discussing, analyzing, evidencing, showing, depicting, describing, reflecting, implying or constituting.

11. As used herein, the singular shall include the plural, the plural shall include the singular, and the masculine, feminine and neuter shall include each of the other genders. The term “including” means “including without limitation.”

12. “Demonstrating” includes but is not limited to: referring to, responding to, relating to, connected with, supporting, memorializing, discussing, analyzing, evidencing, showing, depicting describing, reflecting, implying or constituting.

13. The word “or” means “and/or.”

14. The relevant time frame for these requests for production is October 2012 through the date of production unless otherwise specified herein.

15. “Complaint” refers to the FIRST AMENDED VERIFIED PETITION FOR WRIT OF MANDAMUS FOR PRODUCTION OF PUBLIC RECORDS UNDER THE FLORIDA PUBLIC RECORDS ACT filed by Plaintiff in the case known as McDonough v. City of Homestead filed in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, Case No. 19-06869 CA (15).

DOCUMENTS TO BE PRODUCED

1. Please provide all documents, correspondence, communications or public records which were generated by McDonough filing his request for records on February 18, 2019.

2. Please provide all documents, correspondence, communications or public records which were generated by McDonough filing his Complaint on March 8, 2019.

3. Please provide all documents, correspondence, communications or public records related to Murguido taking funeral leave between March 19 and March 25, 2015.

4. Please provide all documents, correspondence, communications or public records related to Murguido taking vacation leave between January 15 and January 24, 2015.

5. Please provide all documents, correspondence, communications or public records related to Murguido taking workman's compensation leave between February 7 and March 1, 2019.
6. Please provide all documents, correspondence, communications or public records related to Murguido taking comp used leave between January 15 and January 18, 2014.
7. Please provide all documents, correspondence, communications or public records related to Murguido taking comp used, holiday float, safety used, and vacation leave between April 12 and April 26, 2014.
8. Please provide all documents, correspondence, communications or public records related to Murguido taking comp used, birthday taken, and vacation leave between October 1 and October 11, 2014.
9. Please provide all documents, correspondence, communications or public records related to Murguido taking vacation leave between December 4 and December 10, 2014.
10. Please provide all documents, correspondence, communications or public records related to Murguido taking holiday pay, comp used, and safety used leave between July 4 and July 6, 2013.
11. Please provide all documents, correspondence, communications or public records related to Murguido taking vacation leave between October 2 and October 5, 2013.
12. Please provide all documents, correspondence, communications or public records related to Murguido taking sick leave between October 9 and October 11, 2013.
13. Please provide all documents, correspondence, communications or public records related to Murguido taking birthday taken leave on November 9, 2013.
14. Please provide all documents, correspondence, communications or public records related to Murguido taking vacation leave between November 13 and November 14, 2013.
15. Please provide all documents, correspondence, communications or public records showing the time in minutes which were spent responding to the request for records from the Complaint.
16. Please provide all documents, correspondence, communications or public records showing any attempt to delay, hinder, prevent, or block or McDonough's access to public records.
17. Please provide all records that show how the labor expended in responding to records request of the Complaint was actually monitored, tracked and documented.

18. Since CITY estimates, bills and charges by the minute for records request labor, and are currently allowing 30 minutes of free labor time to produce such records, please provide all records that show how that free 30 minutes of labor is actually monitored, tracked and documented on any and all records requests.

Respectfully submitted,



Dr. James Eric McDonough, *pro se*
32320 SW 199th Ave
Homestead, FL 33030
Phone: (571) 245-5410
Email: Phd2b05@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this motion has been served by email on counsel for Defendants, Matthew Mandel at MMandel@WSH-law.com and Matthew Pearl at mpearl@wsh-law.com as well as City Clerk Elizabeth Sewell at ESewell@cityofhomestead.com on this 14th day of March 2019.

Respectfully submitted,



Dr. James Eric McDonough, *pro se*